



California Regulatory Notice Register

REGISTER 2007, NO. 35-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

AUGUST 31, 2007

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (USPS 002-931), (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by Thomson West and is offered by subscription for \$202.00 (annual price). To order or make changes to current subscriptions, please call (800) 888-3600. “Periodicals Postage Paid in Saint Paul, MN.” **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Thomson-West/Barclays, P.O. Box 2006, San Francisco, CA 94126. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by Thomson West.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

STATE AGENCY: California Housing Finance Agency

MULTI-COUNTY: Gavilan Joint Community College District

A written comment period has been established commencing on **August 31, 2007**, and closing on **October 15, 2007**. Written comments should be directed to the Fair Political Practices Commission, Attention **Ashley Clarke**, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the

proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **October 15, 2007**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to **Ashley Clarke**, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3589, subsection (a), of the regulations in Title 3 of the California Code of Regulations pertaining to Japanese Beetle Eradication Area as an emergency action that was effective on July 23, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 21, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before October 15, 2007.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread, and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth

the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

Section 3589, subsection (a), was amended and established Los Angeles County as an eradication area for Japanese beetle, *Popillia japonica*. The effect of this action was to establish authority for the State to conduct eradication activities in Los Angeles County. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3589 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3589 under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed adoption and amendment to the regulations would not (1) create or eliminate jobs within California,

(2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3589, subsection (a), pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes to amend Section 3589, subsection (a), to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3591.2, subsection (a), of the regulations in Title 3 of the California Code of Regulations pertaining to Oriental Fruit Fly Eradication Area as an emergency action that was effective on July 6, 2007. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later than January 2, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before October 15, 2007.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not gener-

ally distributed within this state and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

Section 3591.2, subsection (a), was amended and established San Mateo County as an eradication area for Oriental fruit fly, *Bactrocera dorsalis*. The effect of this action was to establish authority for the State to conduct eradication activities in San Mateo County against this pest. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3591.2 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3591.2 under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed adoption and amendment to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3591.6, subsection (a), pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes to amend Section 3591.6, subsection (a), to implement, interpret and make specific Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street,

Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

TITLE 4. CALIFORNIA HORSE RACING BOARD

TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO AMEND RULE 1843.2. CLASSIFICATION OF DRUG SUBSTANCES

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1843.2, Classification of Drug Substances. The proposed amendment would add administrative law judges and hearing officers as persons who adjudicate hearings for the finding of a drug substance in a test sample taken from a horse participating in a race. The proposed amendment would also revise the form California Horse Racing Board (CHRB) Penalty Category Listing By Classification (7/07), which is incorporated by reference in Rule 1843.2. The revisions to the form include reclassification of drug substances and the addition of new drug substances. A new category listing of "1-P" has also been added to the form to address out of competition testing.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, October 18, 2007**, or as soon after that as business before the Board will permit, at the **Arcadia City Hall, 240 West Huntington Drive, Arcadia, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on October 15, 2007**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
Fax: (916) 263-6042
E-Mail: harolda@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19580, 19581 and 19582, Business and Professions (B&P) Code. Reference: Sections 19580, 19581 and 19582, B&P Code.

Reference cited: B&P Code Sections 19580, 19581 and 19582 authorize the Board to adopt the proposed

regulation, which would implement, interpret or make specific Sections 19580, 19581 and 19582, B&P Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

B&P Code Section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication to preserve and enhance the integrity of horse racing in California. B&P Code Section 19581 states no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and the composition thereof. B&P Code Section 19582 states violations of Section 19581, as determined by the Board are punishable as set forth in regulations adopted by the Board. The Board may classify violations of Section 19581 based on each class of prohibited drug substances, prior violations within the previous three years, and prior violations within the violator's lifetime.

The Board proposes to amend Rule 1843.2. Under B&P Code Section 19517.5, enforcement proceedings that allege the use of a prohibited substance, as defined under class I, II or III of the Board's schedule of prohibited substances, are referred directly to the Office of Administrative Hearings for administrative adjudication. Assembly Bill 1616 will modify this requirement to instead allow referral to either a board of stewards or a hearing officer appointed by the Board at the election of the respondent. This necessitates the amendment of Rule 1843.2 to add the administrative law judge and the hearing officer to the text of the regulation.

The drug penalty categories within Rule 1843.2 provide the Board with guidance for the purpose of reaching a decision on a penalty for violation of B&P Code Section 19581. These drug penalty categories are named in the form California Horse Racing Board Penalty Categories Listing by Classification (7/07), which is incorporated by reference in Rule 1843.2. The proposed amendment to Rule 1843.2 will add drugs that have not previously been categorized. The drugs include non-steroidal anti-inflammatory drugs and anabolic steroids. The Board is also proposing to reclassify some drugs that are already listed on the form. It is necessary to classify drugs because, under Rule 1843.3, Penalties for Medication Violations, a finding that an official test sample contains a drug substance that is not classified automatically becomes a Class 1 violation and a Category A penalty. Class 1 drugs have the highest potential to affect performance and have no generally accepted medical use in the racing horse. Many Class 1 drugs are Drug Enforcement Agency schedule II sub-

stances. Classifying drugs protects horse owners, trainers and other licensees from the harsher Category A penalties of Class 1 drugs.

Board Rule 1858, Test Sample Required, states any horse within the inclosure is subject to testing. This means a horse within the inclosure that has not raced or is not entered to race may be tested. The Board proposes to add a new drug classification to the form California Horse Racing Board (CHRB) Penalty Category Listing By Classification (7/07). The new drug classification is "1-P," which is related to such "out-of-competition" testing. The 1-P classification contains drugs that are prohibited under all circumstances, including out-of-competition.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment of Rule 1843.2 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1843.2 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1843.2 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the

purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
E-mail: harolda@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Andrea Ogden, Analyst
Policy and Regulations
Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to

the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC

MEETING: On **October 18, 2007**, at 10:00 a.m. in the Auditorium of the State Resources Building
1416 Ninth Street, Sacramento, California 95814.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC

HEARING: On **October 18, 2007**, following the Public Meeting in the Auditorium of the State Resources Building
1416 Ninth Street, Sacramento, California 95814.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS

MEETING: On **October 18, 2007**, following the Public Hearing in the Auditorium of the State Resources Building 1416 Ninth Street, Sacramento, California 95814.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Or-

ders of the California Code of Regulations, as indicated below, at its Public Hearing on **October 18, 2007**.

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**

Chapter 4, Subchapter 7, Article 2
Section 3228
Number of Exits

2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**

Chapter 4, Subchapter 7, Article 25
Section 3650
Industrial Trucks, General (Blue Signal Protection)

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**

Chapter 4, Subchapter 7, Article 2
Section 3228
Number of Exits

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

This rulemaking proposal is the result of a Division of Occupational Safety and Health (Division) memorandum and Request for New, or Change in Existing, Safety Order dated April 24, 2007, and staff evaluation and comparison of Title 8 and Federal Occupational Safety and Health Administration (Federal OSHA) fire and life safety exit standards. Title 8 exit standards are contained in Section 3228 which requires at least one exit unless otherwise specified in Table E-1. Table E-1 provides employers with minimum egress and access requirements.

The federal OSHA exit standards are contained in 29 CFR 1910.36(b) and were promulgated on November 7, 2002, (FR No. 67:67949-67965), Exit Routes, Emergency Action Plans and Fire Prevention Plans; Final Rule. The federal standard applies to new and existing buildings. It states that at least two exit routes must be available in a workplace to permit prompt employee evacuation in the event of an emergency. These standards also address the need for more than two exits and permit a single exit route under certain circumstances.

This proposal would amend Section 3228 to include (1) language from 29 CFR 1910.36(b) that requires a minimum of two exits in the workplace, and (2) a reference to the Title 24, 2007 California Building Code, Part 2, Chapter 10, Section 1019, Number of Exits and Continuity. An exception is proposed which would allow a single workplace exit in situations where the employer demonstrates that having one exit is adequate based on occupancy, number of employees, size of the building or the arrangement of the workplace. The pro-

posals deletes outdated Title 24 parenthetical references to building code sections that no longer apply to the current version of the California Building Code, Table E-1, and other portions of Section 3228 that are inconsistent with the provisions added by this proposal.

The California Building Standards Commission will adopt the new California Building Code which is based on the 2006 International Building Code (IBC) rather than the NFPA. Both require a minimum of two exits and both address situations where more than two exits are required.

Section 3228. Number of Exits.

This section contains requirements regarding the number of workplace exits, occupancy, number of stories, occupant load, workplaces where alternative means of egress are required, placement of exits, boiler, furnace and incinerator room exits, use of fixed ladders as an exit alternative, exits for parking garages, the method of computing occupant load, and exiting floors above the second story. This section also refers to Table E-1 which contains minimum egress and access requirements based on use, occupancy load, and square feet per occupant.

Amendments are proposed to delete all of the existing regulatory text in Section 3228 and replace it with new language. The new language in subsection (a) would require a minimum of two exits in the workplace to allow prompt evacuation of employees during an emergency. The proposed language would underscore that two exits, rather than one exit, is the general minimum exit requirement. By making this change, Section 3228 will be made consistent with the equivalent federal standard.

An Exception is proposed which would permit a single workplace exit based on occupancy size, arrangement of the workplace, building size and number of employees and type of occupancy such that all employees would be able to safely evacuate during an emergency. The effect of the proposed Exception would inform the employer of the circumstances under which one exit is acceptable. Those circumstances are stated in the same manner as an equivalent federal provision.

New subsection (b) is proposed to require more than two exits in workplaces in accordance with the occupancy factors described in the proposed regulatory text in situations where safe evacuation of the workplace is not possible with two exits. The proposed amendment would inform the employer of the circumstances under which more than two exits are necessary in certain occupancy situations. The wording mirrors the federal standard.

An informative Note is proposed to apply to subsections (a) and (b) that directs the employer to consult the Title 24, 2007 California Building Code, Part 2, Chapter 10, Section 1019, Number of Exits and Continuity,

as well as the local jurisdiction fire authority for guidance in determining the number of workplace exits and the necessary distance between them. The Note would ensure that Section 3228 is at least as effective as the equivalent federal standard which contains a similar note referencing the NFPA code for determining the appropriate number of required exits.

As to the portions of Section 3228 that are deleted, the effect of the deletions is to rid the standard of provisions that contradict the provisions added by this proposal or that are rendered superfluous in light of the provisions added in this proposal.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Govern-

ment Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

This proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

This proposed standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendment to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS

Chapter 4, Subchapter 7, Article 25
Section 3650

**Industrial Trucks, General (Blue
Signal Protection)**

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Section 3650, subsection (t) sets forth operating rules pertaining to industrial trucks and tow tractors. Section

3650(t)(23) concerns the loading and unloading of rail cars and provides in part that blue flags or lights are to be displayed in accordance with Public Utilities Commission (PUC) standards. However, there are no such PUC standards. This proposal would replace the reference to the nonexistent PUC standards with references to other appropriate standards. The proposal is necessary in order to give force and effect to the blue flag/blue light portion of Section 3650(t)(23).

This rulemaking is initiated in response to the action taken by the Occupational Safety and Health Standards Board (Board) on April 19, 2007, granting Petition File No. 489. The Petitioner, Ric Morrison of the Sunset Molding Company, requested that the blue flag/blue light provision found in the current version of Section 3650(t)(23) be amended to match industry practice. He stated that the absence of PUC blue flag/blue light standards creates a quandary for employers as to what they are required to do.

When railroad cars are loaded or unloaded, there is a danger that the cars will move and injure employees working in proximity to the cars. Section 3650(t)(23) contains provisions intended to ensure that the railroad cars remain stationary. The blue flags and blue lights indicate to rail workers that a car that has been immobilized is not to be coupled to other cars, equipment or locomotives, or otherwise disturbed in a way that would cause the car to move.

The Federal Railroad Administration, has promulgated rules regarding the use of blue lights and blue flags. Those rules, found at Title 49, Code Federal Regulations (CFR) Part 218, Subpart B, provide practical guidance to employers regarding blue flag/blue light use. Of those provisions, 49 CFR Section 218.27 is particularly relevant to the operations that are the subject of Section 3650(t)(23), such as loading and unloading on industrial sidings and industrial railway systems. Section 3333 of the General Industry Safety Orders (GISO) also pertains in part to blue flag/blue light use.

The proposal would delete the erroneous PUC reference from Section 3650(t)(23). In place of that reference, the proposal would add references to 49 CFR Section 218.27 and GISO Section 3333. The proposal would also incorporate 49 CFR Section 218.27 by reference into Section 3650(t)(23) and add the word “blue” before the word “light.” By making these changes, the proposal will make Section 3650(t)(23) more intelligible and give it substance that it presently lacks as a result of the nonexistence of the PUC provisions that it supposedly relies on.

DOCUMENTS INCORPORATED BY REFERENCE

1. Title 49, Code of Federal Regulations, Section 218.27

This document is too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the document by reference. Copies of this document are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local govern-

ments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All employers — state, local and private — will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendment to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consider-

ation. It is requested, but not required, that written comments be submitted so that they are received no later than October 12, 2007. The official record of the rule-making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on October 18, 2007, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Michael Manieri, Principal Safety Engineer, or Christina Witte, Executive Secretary, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 10. DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The Commissioner of Corporations ("Commissioner") proposes to adopt, repeal, and amend rules under the Corporate Securities Law of 1968 ("Corporate Securities Law") relating to the regulation of investment advisers. The Commissioner proposes to amend Sections 260.231, 260.235, 260.237, 260.237.2, 260.238, and 260.241.3; to repeal Section 260.237.1; and to adopt Sections 260.235.5, 260.238.1, 260.238.2,

260.238.3, and 260.238.4 of Title 10 of the California Code of Regulations.

PUBLIC COMMENTS

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department addressed to Karen Fong, Office of Legislation and Policy, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California, 95814-4052, no later than 5:00 p.m., October 30, 2007. Written comments may also be sent to Karen Fong via electronic mail at regulations@corp.ca.gov or via fax at (916) 322-5875. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

The Department licenses and regulates investment advisers under the Corporate Securities Law (Corporations Code Section 25000 et seq.). Under the Corporate Securities Law, it is unlawful for an investment adviser to conduct business without first applying for and securing a certificate, as specified.

This regulatory action will increase uniformity with other states' investment adviser regulations by paralleling changes in the North American Securities Administrator's Association ("NASAA") model rules. This action will also increase consistency, when applicable, with recently modified or adopted Securities and Exchange Commission ("SEC") rules and interpretations. Section 260.231

The proposed amendments to this section will incorporate the April 23, 2007, upgrade to the Investment Adviser Registration Depository (IARD) system and require investment advisers to file Part 2 of Form ADV with the Department electronically through the IARD system. Section 260.235

The amendments to this section will incorporate principles governing performance-based advertising set

forth in the 1986 SEC No-Action letter involving Clover Capital Management (“Clover”). The section will parallel the principles set forth in Clover by prohibiting performance-based advertisements that:

- Fail to disclose the effect of material market or economic conditions on the results advertised.
- Fail to disclose the extent to which the advertised results reflect the reinvestment of dividends or other earnings.
- Fail to disclose all material facts necessary to avoid any unwarranted inference.
- Suggest or make claims about the potential for profit without disclosing the potential for loss.
- Omit any of the facts material to the performance figures.
- Fail to reflect the deduction of advisory fees, brokerage, or other commissions, and any other expense that a client would have paid or actually paid.

Section 260.235.5

This proposed rule will require investment advisers to deliver to each prospective advisory client a written disclosure statement or brochure, describing the adviser’s business practices and educational and business background. The required disclosure consists of Part II of Form ADV, the registration form for investment advisers.

Section 260.237

The amendments to this section will define the term “custody” in the context of client funds or securities. In addition to defining the term “custody,” the amendments will also require that advisers with custody maintain assets with a qualified custodian, as defined in the rule. The rule will require that the investment adviser have a reasonable belief that a qualified custodian holding the assets is providing periodic account statements to clients.

Section 260.237.1

This section is being repealed because it is no longer operative.

Section 260.237.2

The amendments to this section will eliminate the reference to Section 260.237.1 (10 C.C.R. 260.237.1) that became inoperative on January 1, 2005, and will strike the previous definition of custody found in subsection 260.237.2(e), and instead cross-reference the proposed definition of custody found in the amendments to Section 260.237(c)(1) (10 C.C.R. 260.237).

Section 260.238

The amendments to this section will specify that certain activities do not promote “fair, equitable, and ethi-

cal principles,” as that phrase is used in Section 25238 of the Corporations Code.

Specifically, the proposed changes will provide that the following acts constitute an unethical business practice:

- Failing to adopt procedures designed to prevent the misuse of material nonpublic information, as required by proposed Section 260.238.1.
- Requiring a client to waive protections created by the rules of the Commissioner.
- Engaging in any conduct unlawful under the rules of the Commissioner.

Section 260.238.1

In general, this proposed rule will require investment advisers to adopt procedures designed to prevent the misuse of material nonpublic information, and will require investment advisers to adopt reporting procedures concerning personal securities transactions by supervised employees. This proposed rule largely mirrors the SEC’s Investment Adviser Code of Ethics (17 CFR 275.204A-1).

More specifically the rule would require the adoption of:

- A code of ethics that reflects the fiduciary obligation of the investment adviser, and its supervised persons.
- Procedures requiring supervised persons to comply with applicable federal and state securities law.
- Procedures requiring certain employees to report personal securities purchases to the investment adviser.

Section 260.238.2

In general, this proposed rule will clarify practices involving “soft dollars.” These practices involve indirectly obtaining certain services by incorporating the charges for those services into client commissions. This proposed rule will incorporate Section 28(e) of the Securities Exchange Act of 1934 (“Exchange Act,” 15 U.S.C. § 78a et seq.).

This rule adopts the language of Section 28(e) of the Exchange Act which establishes a safe harbor that allows money managers to use client funds to purchase “brokerage and research services” for their managed accounts under certain circumstances without breaching their fiduciary duties to clients. The scope of the term “brokerage and research services” is clarified in SEC Release No. 34-541365, (17 C.F.R. Part 241). The SEC release is partially incorporated into this proposed rule.

Section 260.238.3

In general, this proposed rule prohibits any investment adviser from paying a cash fee, directly or indirectly, to any solicitor with respect to solicitation activi-

ties unless certain conditions are met. The rule requires that the cash fee for solicitation activities must be paid pursuant to a written agreement, and also requires the solicitor to provide certain disclosures to clients. The rule requires an investment adviser to make a bona fide effort to ascertain whether the solicitor has complied with the conditions set forth in the parties' agreement.

Section 260.238.4

This proposed rule requires an investment adviser to adopt and implement a business continuity plan. In general, the plan must specify how an investment advisory business would respond to emergencies of varying scope. The plan must be in writing and must specify how an investment adviser will address emergencies that disrupt the advisory business (e.g., alternative communications channels between an investment adviser and its clients). The plan must also provide certain specified safeguards for clients in the event of death or incapacitation of the investment adviser. The rule requires the investment adviser to disclose the nature of the plan to clients.

Section 260.241.3

The proposed amendments to this rule provide that all records (regardless of form, electronic or otherwise) must be arranged and indexed, promptly provided upon request, and duplicates separately stored from the original, based on the time preservation of the original record. Additionally, the rule will:

- Require that financial statements required to be maintained under the existing rule be prepared in accordance with General Accepted Accounting Principles.
- Amend the provision of the existing rule involving the retention of circulars or advertisement sent to individuals, to lower the number of persons that would trigger the retention requirement from 10 individuals to 2 individuals.
- Require the retention of written communications involving litigation regarding a written customer complaint.
- Require the retention of information regarding clients that is the basis for making any investment recommendation to such clients.
- Require the retention of written procedures to supervise employees.
- Require the retention of documents of each initial Form U-4 and each amendment to the disciplinary pages of Form U-4.
- Require the retention of certain specific documents, where the investment adviser inadvertently held or obtained a client's securities.

- Require the retention of documents that grant the adviser the authority to withdraw a client's funds or securities maintained with a custodian.
- Require the retention of certain specific documents that are acquired by the investment adviser from the issuer in a transaction not involving any public offering.
- Require the retention of certain documents necessary to form the basis for the calculation of the performance of all managed accounts or securities recommendations identified in any notice, or advertisement.
- Require the retention of certain documents in situations where an investment adviser has custody of securities or funds.
- Require the retention of documents showing what securities were purchased and sold, and amount and price of each purchase and sale.

AUTHORITY

Sections 25235, 25237, 25238, 25241 and 25610 of the Corporations Code.

REFERENCE

Sections 25230, 25235, 25236, 25237, 25238, 25241, and 25613 of the Corporations Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation(s). A request for a copy of any modified regulation(s) should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulation(s) for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 27/03 — B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is

available from the contact person designated below. Request Document PRO 27/03 — C. These documents are also available at the Department's website at www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Legislation and Policy maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Legislation and Policy, 1515 K Street, Suite 200, Sacramento, California 95814-4052.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or savings to any state agency: None.
- Direct or indirect costs or savings in federal funding to the state: None.
- Cost to local agencies and school districts required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None
- Other nondiscretionary costs/savings imposed on local agencies: None
- Costs to private persons or businesses directly affected: Insignificant or none.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not affect small businesses. Investment advisers are not small businesses under Government Code Section 11342.610(b)(1).

- Does not impose a mandate on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations will not affect small business. Under Government Code Section 11342.610(b)(1), investment advisers are not a small business.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the proposed regulation or questions regarding the timelines or rulemaking status, may be directed to Karen Fong at (916) 322-3553. The backup contact person is Marilyn Kaspar at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Colleen Monahan, Lead Corporations Counsel, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California 95814, (916) 322-3553.

TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Chapter 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any in-

interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Public Comments Due by October 15, 2007, at 5:00 PM

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at 916.227.5271 or by letter to the:

Commission on POST
Attention: Rulemaking
1601 Alhambra Boulevard
Sacramento, CA, 95816-7083

Following the close of the public comment period, the Commission may adopt the proposal substantially as described below or may modify the original proposal with sufficiently related changes. With the exception of technical or grammar changes, the full text of a modified proposal will be available for 15 days prior to its adoption from the person designated in this notice as the contact person. The Commission will also mail the full text to persons who submit written comments related to the proposal or who have requested notification of any changes to the proposal.

Authority and Reference

This proposal is made pursuant to the authority vested by Penal Code § 13503 — POST powers and § 13506 — POST authority to adopt regulations. This proposal is intended to interpret, implement, and make specific Penal Code § 13503(e) — POST authority to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses, and Penal Code § 13519.12 — POST authority to establish training standards involving the responsibilities of first responders to terrorism incidents and training standards for related instruction, and 13519.14 — POST authority to implement a course of instruction in the handling of human trafficking complaints.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Penal Code § 13519.14, added in late 2005 by Senate Bill 180 (Senator Kuehl), directed the Commission to implement a course of instruction for the training of California law enforcement officers in the handling of human trafficking complaints and to develop guidelines for the law enforcement response to human trafficking.

Human trafficking is one of the most horrific crimes committed in our society today. It involves the recruitment, abduction, transport, harboring, transfer, sale or

receipt of persons, within national or across international borders, through force, coercion, fraud, or deception, and places persons in situations of slavery or slavery-like conditions, forced labor or services, such as forced prostitution or sexual services, domestic servitude, bonded sweatshop labor and other debt bondage. Human traffickers prey on the most vulnerable and disadvantaged members of society.

To develop the curriculum, POST convened a group of subject matter experts consisting of members representing various city, county, state, and federal agencies; social service agencies; advocates; and attorneys. POST subsequently produced the POST Telecourse (in DVD format) titled Response to Human Trafficking 2006 for distribution to all California State and local law enforcement agencies, for training their officers in addressing the issue of human trafficking.

At its January 2007 meeting, the Commission approved the curriculum. Approval of the proposed regulation via the Administrative Procedure Act will add this curriculum to POST regulations. Pursuant to Penal Code § 13519.14, participation in the course by peace officers or the agencies employing them is voluntary. Note: The Commission previously approved the guidelines required pursuant to Penal Code § 13519.14 at its January 2007 meeting.

Local Mandate — This proposal does not impose a mandate on local agencies or school districts.

Fiscal Impact Estimates — This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with § 17500) of the Government Code, Division 4. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

Costs or Savings to State Agencies — POST anticipates no additional costs or savings to state agencies.

Business Impact/Small Businesses — The Commission has made an initial determination that this regulatory proposal would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses, as defined by Government Code section 11342.610, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

Assessment Regarding Effect on Jobs/Businesses — The Commission has determined that this regulatory proposal will not have any impact on the creation or elimination of jobs, will not result in the elimination of existing businesses or the creation or expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses — The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs — None.

Alternatives — The Commission must determine that no reasonable alternative considered by the agency, or otherwise identified and brought to the agency's attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

Contact Persons — Please direct inquiries or comments about this proposed regulatory action to the following individuals:

Patricia Cassidy
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA, 95816-7083
916.227.4847 or Patricia.Cassidy@post.ca.gov
916.227.5271 (FAX)

Bob Sherock
Commission on POST
1601 Alhambra Boulevard
Sacramento, CA, 95816-7083
916.227.4829 or Bob.Sherock@post.ca.gov

Text of Proposal — Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 1601 Alhambra Boulevard, Sacramento, CA 95816. These documents are also located on the POST website at: <http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>.

Availability and Location of the Rulemaking File and the Final Statement of Reasons — The rulemaking file contains the above-mentioned documents and all information upon which POST is basing this proposal and is available for public inspection by contacting the person named above. To request a copy of the Final Statement of Reasons once it has been prepared submit a written request to the contact person name above.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the au-

thority vested by sections 202 and 355 of the Fish and Game Code and to implement, interpret or make specific sections 202, 355 and 356 of said Code and Part 10, subparts A and B, and Part 20, Title 50, CFR, amended Sept. 18, 1987, 52 Fed. Reg. 35248, proposes to amend sections 502, Title 14, California Code of Regulations, relating to waterfowl; canvasback hunting regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and establish daily bag and possession limits. The U.S. Fish and Wildlife Service, after analysis of waterfowl population survey and other data, has changed federal regulations which will permit an increase in the daily bag limit for canvasbacks.

The Department's proposal is to increase the daily bag limit for canvasbacks from 1 per day to 2 per day.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Crown Plaza Cedar Room, 45 John Glenn Drive, Concord, California, on Friday, October 12, 2007 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a teleconference hearing to be held in the Commission Conference Room, 1416 Ninth Street, Room 1320, Sacramento, California, on Tuesday, October 16, 2007, at 1:30 p.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 16, 2007 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 15, 2007.** All comments must be received no later than October 16, 2007, at the teleconference hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Jon Snellstrom at

the preceding address or phone number. **Dr. Eric Loft, Chief Wildlife Branch, Department of Fish and Game, phone (916) 445-3406 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations are intended to provide additional recreational opportunity to the public. The response is expected to be minor in nature.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs mandated on Local Agencies or School Districts: None.
- (g) Costs imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 16. BOARD OF PODIATRIC MEDICINE

NOTICE IS HEREBY GIVEN that the Board of Podiatric Medicine (hereinafter "board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Courtyard by Marriott — Sherman Oaks, 15433 Ventura Blvd., Sherman Oaks, CA 91403, at 9:00 a.m., on October 19, 2007. Written comments must be received by the Board at its office not later than 5:00 p.m. on October 17, 2007, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral

testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2470 of the Business and Professions Code; and to implement, interpret or make specific sections 2475.1, 2486 and 2488 of the Business and Professions Code, the Board is considering changes to Division 13.9 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1399.660 — Applications, Certificates.

Business and Professions Code Section 2470 authorizes the board to adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations necessary to enable the board to carry into effect the provisions of law relating to the practice of podiatric medicine.

The proposed amendment to regulation 1399.660 will enumerate the exams from which the Board of Podiatric Medicine will accept passing scores, should such scores be submitted on behalf of applicants for certificate to practice podiatric medicine. This amendment will include the United States Medical Licensing Examination (USMLE) and the National Board of Osteopathic Medical Examination (NBOME) as equivalent to exams of the National Board of Podiatric Medical Examiners (NBPME). Amending this regulation to include equivalent examinations will provide options and additional opportunities for candidates to achieve qualifying test scores, without imposing additional requirements.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement:

None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting

business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board of Podiatric Medicine has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board of Podiatric Medicine is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The Board of Podiatric Medicine has determined that the proposed regulations would not affect small businesses. This amends the regulation to include equivalent examinations for licensure, providing options but not additional requirements.

CONSIDERATION OF ALTERNATIVES

The Board of Podiatric Medicine must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Podiatric Medicine has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Podiatric Medicine at 1420 Howe Avenue, Suite 8, Sacramento, California 95825-3229.

**AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS
AND RULEMAKING FILE**

All the information upon which the proposed regulation is based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below [or by accessing the website listed below].

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Kathleen Cook
Address: 1420 Howe Avenue, Suite 8
Sacramento, CA 95825-3229
Telephone No.: 916-263-0315
Fax No.: 916-263-2651
E-Mail Address: Kathleen_Cook@dca.ca.gov

The backup contact person is:

Name: Jim Rathlesberger
Address: 1420 Howe Avenue, Suite 8
Sacramento, CA 95825-3229
Telephone No.: 916-263-2650
Fax No.: 916-263-2651
E-Mail Address: Jim_Rathlesberger@dca.ca.gov

Website Access: Material regarding this proposal can be found at <http://bpm.ca.gov/lawsregs/index.htm>.

**TITLE 16. PHYSICAL THERAPY
BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Elihu Harris Bldg., 1515 Clay Street, Room 9, Oakland, California 94612, (510) 622-2564 at 1:30 p.m. on Thursday, October 25, 2007. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Physical Therapy Board of California at its office not later than 5:00 p.m. on October 15, 2007 or must be received at the hearing. The Physical Therapy Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as de-

scribed below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 125.9 and 2615 of the Business and Professions Code and to implement, interpret or make specific sections 125.9 or 2615 of said code, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/ POLICY STATEMENT
OVERVIEW**

1) Amend Section 1399.25 and Repeal 1399.26

Section 125.9 of the Business and Professions Code authorizes the board within the Department of Consumer Affairs to establish a system for the issuance of a citation to a licensee which may contain an order of abatement or an order to pay an administrative fine assessed by the board when the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

Existing Section 1399.25 currently authorizes the Executive Officer of the Physical Therapy Board of California to issue citations containing orders of abatement and fines for violations by physical therapists and physical therapist assistants.

Existing regulations do not incorporate all those sections in the California Code of Regulations and the Business and Professions Code which when violated, the Board in its sole discretion, determines that the facts of a particular case warrants a lesser action of an administrative citation and fine. The current language identifies only specific statute and regulation codes which restrict the board's authority to issue citations on other violations that are not at a disciplinary level but should be at a citable level. The proposed language also offers a solution to the Board's present problem of the necessity to continually file a Rulemaking File to give authority to cite on new statutes which are not included in the list of citable offenses in 1399.26.

The proposed regulatory amendment will incorporate all current and future sections in the laws and regulations and any other statutes or regulations for which the board may issue a citation and fine.

The proposed regulatory amendment to 1399.25 will establish what factors will be taken into consideration and what circumstances will apply when determining

the amount of the fine and sets forth the conditions which will permit the Board to issue an administrative fine of over \$2,500.

The Board is repealing the provisions of section 1399.26, which is the comprehensive list of the sections for which the Board may issue a citation. The need for this list will be unnecessary by the amendments to section 1399.25, which will allow the board to issue a citation and fine of over \$2,500 and will be consistent with the State Services Agencies Service's position that gave the board the criteria to set the fine over \$2,500 for certain citations and fines.

The proposed regulatory amendment will also clarify that withdrawn and dismissed citations shall not only continue to be purged but also destroyed immediately upon withdrawal or dismissal.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal would not have an impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities:

The Physical Therapy Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Housing Costs: None

EFFECT ON SMALL BUSINESS

The Physical Therapy Board of California has determined that the proposed regulations would not affect

small businesses and would only affect individual applicants and licensees.

CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Elsa Ybarra
1418 Howe Avenue, Suite 16
Sacramento, CA 95825
(916) 561-8262
(916) 263-2560 — Fax Number
Elsa_Ybarra@dca.ca.gov

The backup contact person is:

Rebecca Marco
1418 Howe Avenue, Suite 16
Sacramento, CA 95825
(916) 561-8260
(916) 263-2560 — Fax Number
Rebecca_Marco@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Elsa Ybarra at (916) 561-8262.

Website Access: Materials regarding this proposal can be found at www.ptb.ca.gov.

TITLE MPP. DEPARTMENT OF SOCIAL SERVICES

ORD #0705-10

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM #1 Training of Child Welfare Workers and Juvenile Probation Workers

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held October 17, 2007, as follows:

October 17, 2007
Office Building #9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on October 17, 2007.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are attached/available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586
FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Manual of Policies and Procedures Division 14 (Staff Development and Training), Chapter 14-600 (Training Programs), Section 14-610 (Training for New Social Service Workers) and Section 14-611 (Training for Child Welfare Workers, Child Welfare Supervisors, and Juvenile Probation Officers and Supervisors Responsible for Title IV-E Placement Activities); Chapter 14-900 (Training Records), Section 14-915 (Additional Child Welfare Department Requirements) and Section 14-916 (Probation Officers).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing regulations encourage county welfare departments to provide training to newly hired, transferred, or promoted employees to social services positions. The regulations specify “training should be provided within 90 calendar days from the date of employment or significant change in job duties” and indicate what “may” be included in the training.

While existing regulations require continuing training, they do not specify the number of hours of training. Current regulations require counties to maintain training records. However, the counties are not required to maintain them for the new required training and training completion time frames.

Currently, the Department of Corrections and Rehabilitation requires all juvenile probation officers and supervisors receive annual training. However, these regulations do not specify training in child welfare services for those probation officers and supervisors who provide placement services to Title IV–E placement wards.

In 2001, the Administration for Families and Children cited CDSS for not having a statewide training program. As part of the implementation of California’s federally required Program Improvement Plan, the CDSS agreed to establish mandatory standardized core training for child welfare workers and supervisors and a minimum number of hours of continuing training for child welfare workers and supervisors.

These proposed regulations will also require that juvenile probation officers and supervisors, who provide placement services to Title IV–E placement wards, receive training in child welfare services as a part of their annual training.

These proposed regulations are in accord with Title 45 Code of Federal Regulations Section 1357.15(t), Welfare and Institutions Code Section 16206, and the Title IV–B Program Improvement Plan, as they recognize the need for statewide coordinated training in child welfare services for those individuals providing services to children and the need to maintain records regarding such training.

Failure to comply with these regulations may result in adjustments to the county’s Titles IV–B and IV–E claims.

COST ESTIMATE

1. Costs or Savings to State Agencies: Expenditures of approximately \$7.356 million in FY 2007–08, which matches the estimated amounts in the Governor’s FY 2007–08 budget.

2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No fiscal impact exists because this regulation does not affect any local entity or program.
4. Federal Funding to State Agencies: Expenditures of approximately \$10.624 million in FY 2007–08, which matches the estimated amounts in the Governor’s FY 2007–08 budget.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not school districts. There are “state–mandated local costs” in these regulations which require state reimbursement under Sections 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government and funded in part by the federal and state governments.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553 and 10554. Subject regulations implement and make specific 45 CFR 1357.15(t) and Welfare and Institutions Code Section 16206.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Robin Garvey (916) 657-2586
Backup: Sandra Ortega (916) 657-2586

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication August 31, 2007

CESA CONSISTENCY DETERMINATION REQUEST FOR

Geotechnical Investigations for the I-80 Across
the Top Bus/Carpool Lane
Sacramento County

The Department of Fish and Game (Department) received a notice on August 10, 2007 that the California Department of Transportation (Caltrans) proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the drilling of 2 to 3 boreholes in the Natomas East Main Drain Canal (NEMDC) channel between Steelhead Creek and the eastern levee to pro-

vide Caltrans with data to determine sufficient structural support for the proposed bridge over the NEMDC that will be a component of the I-80 Across the Top Bus/Carpool Lane Project (Project). Drilling will occur between August and the end of September 2007. Project activities associated with staging and construction will result in temporary impacts to approximately 0.45 acres of upland habitat suitable for the giant garter snake (*Thamnophis gigas*), and could result in modality of individuals of the species.

The U.S. Fish and Wildlife Service (Service) issued a programmatic “no jeopardy” federal biological opinion (1-1-03-F-0154)(Programmatic BO) and incidental take statement (ITS) to the Federal Highway Administration (FHWA) on January 24, 2005 which considers the effects of small highway projects on the Federally and State threatened giant garter snake. On August 9, 2007 the Service issued the FHWA an append letter (1-1-07-F-0111) approving the inclusion of the Geotechnical Investigations Project in the Programmatic BO. Pursuant to California Fish and Game Code Section 2080.1, Caltrans is requesting a determination that the Programmatic BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the Programmatic BO and ITS are consistent with CESA for the proposed Project, Caltrans will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication August 31, 2007

CESA CONSISTENCY DETERMINATION REQUEST FOR

Rosemary’s Mountain Quarry and Associated
State Route 76 Expansion Project
San Diego County

The Department of Fish and Game (Department) received a notice on August 8, 2007 that the Granite Construction Company proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the operation of a rock quarry, aggregate processing plant, and asphalt plant on 38 acres north of State Route (SR) 76, approximately 1.25 miles east of Interstate 15 in San Diego County, California (Project). Project activities also include the preparation of the lower portion of the site for use as a water storage reservoir associated with the quarry’s reclamation plan, and the

realignment and widening of SR 76 from the Project site to I-15. Project activities will result in direct impacts to approximately 1.6 acres of riparian habitat suitable for least Bell's vireo (*Vireo bellii pusillus*) and southwestern willow flycatcher (*Empidonax traillii eximius*), and could result in mortality of individuals of the species.

The U.S. Fish and Wildlife Service (Service) issued a "no jeopardy" federal biological opinion (FWS-SDG-4081.7)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers (Corps) on June 27, 2007 which considers the Project's effects on the Federally and State endangered least Bell's vireo and southwestern willow flycatcher and authorizes incidental take of those species provided certain conditions are met. Pursuant to California Fish and Game Code Section 2080.1, Granite Construction Company is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, Granite Construction Company will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the project.

OAL REGULATORY DETERMINATIONS

CALIFORNIA INSTITUTION FOR WOMEN

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS

(Pursuant to Government Code Section 11340.5
and Title 1, section 270, of the
California Code of Regulations)

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826
E-Mail: staff@oal.ca.gov

SUSAN LAPSLEY
Director

Date: August 14, 2007
To: James W. Whitehouse
From: Chapter Two Compliance Unit

Subject: **2007 OAL DETERMINATION NO. 10(S)**
(CTU 07-0503-01)
(Issued pursuant to Gov. Code, sec. 11340.5;
Cal. Code Regs., tit. 1, sec. 270(f)(2)(E))

Petition challenging as an underground regulation a pamphlet entitled "Visiting Rules and Regulations" issued by the California Institution for Women

On May 3, 2007, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether the publication you challenge is an underground regulation. The publication is a pamphlet issued in 2006 by the California Institution for Women at Chino (CIW), entitled "Visiting Rules and Regulations."¹

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600, which should have been, but was not adopted pursuant to the APA. Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a "regulation" in Government Code section 11342.600 is required to be adopted pursuant to the APA. A "regulation" is defined as:

... every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA.

Penal Code section 5058 establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility...

¹ You also challenged two similar pamphlets issued by the CDCR. However, you stated in your letter of June 12, 2007, that these pamphlets were posted at CIW until the production of the CIW pamphlet. Since these CDCR pamphlets appear to have been superseded by the CIW publication, and are no longer being enforced at CIW, we decline to examine whether they are underground regulations in this determination.

....

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution. Your petition challenges a pamphlet issued by CIW. By its own terms, it applies only to inmates and visitors at CIW. The copy you provided which was revised in May 2006 states:

This pamphlet is designed as a guide to inform visitors/inmates of the various rules, regulations and procedures governing visits at CIW.

In *In re Garcia* (67 Cal.App.4th 841), the court discussed the nature of a “local rule” dealing with correspondence between inmates at Richard J. Donovan Correctional Facility (Donovan):

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

.....

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, the pamphlet entitled “Visiting Rules and Regulations” issued by CIW applies only to inmates and visitors at CIW. Similar inmates and visitors housed at other institutions are controlled by that institution’s visiting policies. Therefore, the pamphlet is a “local rule” and is exempt from compliance with the APA.²

Date: August 14, 2007

/s/
Susan Lapsley
Director

² For this reason, pursuant to subdivision (f)(2)(E) of section 270, a rule which is included in a statutory exemption is the proper subject of a summary disposition letter. California Code of Regulations, Title 1, section 270, subdivision (f) provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review . . . demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be used to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule. (Emphasis added.)

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225

/s/
Kathleen Eddy
Senior Counsel

CORRECTIONAL TRAINING FACILITY

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS (Summary Disposition)

(Pursuant to Government Code Section 11340.5
and Title 1, section 270, of the
California Code of Regulations)

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826
E-Mail: staff@oal.ca.gov

SUSAN LAPSLEY

Director

Date: August 17, 2007
To: William Odessa Brown II
From: Chapter Two Compliance Unit
Subject: **2007 OAL DETERMINATION NO. 13(S)**
(CTU 07-0625-01)
(Issued pursuant to Gov. Code, sec. 11340.5;
Cal. Code Regs., tit. 1, sec. 270(f)(2)(E))

Petition challenging as an underground regulation Operations Procedure #88 issued by the Correctional Training Facility.

On June 25, 2007, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether the publication you challenge is an underground regulation. The publication is Operations Procedure #88, dated July 2006, issued by the Correctional Training Facility (CTF), dealing with lockdown procedures in the North Facility.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600, which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the

underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a “regulation” in Government Code section 11342.600¹ is required to be adopted pursuant to the APA. In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA.

Penal Code section 5058 establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be “regulations” as defined in Section 11342.600 of the Government Code:

(1) Rules issued by the director applying solely to a particular prison or other correctional facility. . .

This exemption is called the “local rule” exemption. It applies only when a rule is established for a single correctional institution. Your petition challenges Operations Procedure #88, issued by CTF. The Procedure states: “The purpose of this procedure is to establish the unlock procedures and schedules for North Facility.” By its own terms, Operations Procedure #88 applies only to the procedures at North Facility at CTF.

In *In re Garcia* (67 Cal.App.4th 841), the court discussed the nature of a “local rule” dealing with correspondence between inmates at Richard J. Donovan Correctional Facility (Donovan):

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (e)(1), is not subject to APA requirements.

Similarly, Operations Procedure #88 issued by CTF applies only to procedures used at CTF. Other institutions are controlled by their own procedures. Therefore, Operations Procedure #88 is a “local rule” and is exempt from compliance with the APA.²

¹ “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² For this reason, pursuant to subdivision (f)(2)(E) of section 270, a rule which is included in a statutory exemption is the proper subject of a summary disposition letter. California Code of Regulations, Title 1, section 270, subdivision (f) provides:

(Footnote continued on next column)

Date: August 17, 2007

/s/
Susan Lapsley
Director

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225

/s/
Kathleen Eddy
Senior Counsel

DEPARTMENT OF CORRECTIONS AND REHABILITATION

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATIONS

(Pursuant to Government Code Section 11340.5 and Title 1, section 270, of the California Code of Regulations)

OFFICE OF ADMINISTRATIVE LAW

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SUSAN LAPSLEY
Director

(Footnote continued)

(f)(1) If facts presented in the petition or obtained by OAL during its review . . . demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be used to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule. (Emphasis added.)

Date: August 17, 2007
 To: David Scott Curtis
 From: Chapter Two Compliance Unit
 Subject: **2007 OAL DETERMINATION NO. 12(S)**
(CTU 07-0503-01)
 (Issued pursuant to Gov. Code, sec. 11340.5;
 Cal. Code Regs., tit. 1, sec. 270(f)(2)(C))

Petition challenging as an underground regulations California Code of Regulations, title 15, sections 2236 and 2401

On June 22, 2007, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether California Code of Regulations, title 15, sections 2236 and 2401 are underground regulations.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a “regulation” as defined in Government Code section 11342.600¹, which should have been, but was not, adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

If a rule meets the definition of a regulation in Government Code section 11342.600, but was not adopted pursuant to the APA, it may be an “underground regulation” as defined in California Code of Regulations, title 1, section 250:

The following definitions shall apply to the regulations contained in this chapter:

(a) “Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, *but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA* and is not subject to an express statutory exemption from adoption pursuant to the APA. (Emphasis added)

Pursuant to Government Code section 11343.6 the filing of a rule with the Secretary of State raises the re-

buttable presumption that it was duly adopted and that all the requirements of the APA have been met. You have challenged as underground regulations California Code of Regulations, title 15, sections 2236 and 2401. Section 2236 was filed with the Secretary of State on July 5, 1977, as an emergency regulatory action. The regular rulemaking Certificate of Compliance for section 2236 was filed with the Secretary of State on October 28, 1977. Section 2401 was filed with the Secretary of State on September 8, 1981. Amendments to section 2401 were filed with the Secretary of State on August 12, 1982 and November 13, 1985.

These sections, then, have been adopted as regulations and filed with the Secretary of State pursuant to the APA. There is no evidence in the past twenty years since adoption of the sections to rebut the statutory presumption established pursuant to Government Code section 11343.6. The challenged rules are not underground regulations.²

Date: August 17, 2007

/s/
 Kathleen Eddy
 Senior Counsel

Office of Administrative Law
 300 Capitol Mall, Suite 1250
 Sacramento, CA 95814
 (916) 323-6225

/s/
 Susan Lapsley
 Director

² A rule which is contained in a properly adopted regulation is the proper subject of a summary disposition letter. California Code of Regulations, Title 1, section 270, subdivision (f) provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review . . . demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be used to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) *The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.*

(D) The challenged rule has expired by its own terms.

¹ “Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

**R.J. DONOVAN CORRECTIONAL
FACILITY**

OFFICE OF ADMINISTRATIVE LAW

**DETERMINATION OF ALLEGED
UNDERGROUND REGULATIONS
(Summary Disposition)**

**(Pursuant to Government Code Section 11340.5
and Title 1, section 270, of the
California Code of Regulations)**

OFFICE OF ADMINISTRATIVE LAW

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SUSAN LAPSLEY

Director

Date: August 17, 2007
To: Michael M. Darrow
From: Chapter Two Compliance Unit
Subject: **2007 OAL DETERMINATION NO. 11(S)**
(CTU 07-0709-01)
(Issued pursuant to Gov. Code, sec. 11340.5;
Cal. Code Regs., tit. 1, sec. 270(f)(2)(E))

Petition challenging as an underground regulation an Operational Plan #30 entitled "Inmate Visiting" issued by the R.J. Donovan Correctional Facility.

On July 9, 2007, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether the publication you challenge is an underground regulation. The publication is Operational Plan #30 revised in 2007 by the R.J. Donovan Correctional Facility at San Diego (RJD), entitled "Inmate Visiting."

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600, which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

Generally, a rule which meets the definition of a "regulation" in Government Code section 11342.600¹ is required to be adopted pursuant to the APA.

In some cases, however, the Legislature has chosen to establish exemptions from the requirements of the APA.

Penal Code section 5058 establishes exemptions expressly for the California Department of Corrections and Rehabilitation (CDCR):

(c) The following are deemed not to be "regulations" as defined in Section 11342.600 of the Government Code:

This exemption is called the "local rule" exemption. It applies only when a rule is established for a single correctional institution. Your petition challenges Operations Procedure #88, issued by CTF. The Procedure states: "The purpose of this procedure is to establish the unlock procedures and schedules for North Facility." By its own terms, Operations Procedure #88 applies only to the procedures at North Facility at CTF.

In *In re Garcia* (67 Cal.App.4th 841), the court discussed the nature of a "local rule" dealing with correspondence between inmates at Richard J. Donovan Correctional Facility (Donovan):

The Donovan inter-institutional correspondence policy applies solely to correspondence entering or leaving Donovan. It applies to Donovan inmates in all instances.

...

The Donovan policy is not a rule of general application. It applies solely to Donovan and, under Penal Code section 5058, subdivision (c)(1), is not subject to APA requirements.

Similarly, Operations Procedure #88 issued by CTF applies only to procedures used at CTF. Other institutions are controlled by their own procedures. Therefore, Operations Procedure #88 is a "local rule" and is exempt from compliance with the APA.²

¹ "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

² For this reason, pursuant to subdivision (f)(2)(E) of section 270, a rule which is included in a statutory exemption is the proper subject of a summary disposition letter. California Code of Regulations, Title 1, section 270, subdivision (f) provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review . . . demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be used to conclude that a challenged rule is an underground regulation.

(Footnote continued on next page)

Date: August 17, 2007

/s/
Susan Lapsley
Director

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/s/
Kathleen Eddy
Senior Counsel

RULEMAKING PETITION DECISIONS

DEPARTMENT OF CORRECTIONS AND REHABILITATION

NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3, Adult Institutions,
Programs and Parole**

PETITIONER

Thomas Hightower, J-98566.

AUTHORITY

The authority granted by Government Code (GC) Section 12838.5 vests to the California Department of

(Footnote continued)

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.

(Emphasis added.)

Corrections and Rehabilitation (CDCR) all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished Youth and Adult Correctional Agency, California Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections refers to the Secretary of the CDCR. PC Section 5054 vests with the Secretary of the CDCR the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein. PC Section 5055 provides that commencing July 1, 2005, all powers/duties previously granted to and imposed upon the CDC shall be exercised by the Secretary of the CDCR. PC Section 5058 provides that the Director may prescribe and amend regulations for the administration of prisons.

CONTACT PERSON

Please direct any inquiries regarding this action to Timothy M. Lockwood, Chief, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001.

AVAILABILITY OF PETITION

The petition to amend regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

Petitioner requests the CDCR rewrite the current procedure on "B" privilege group inmates to allow "B" privilege inmates to be automatically made "A" privilege group after 30 days on the waiting list for a work or school assignment. Petitioner also requests the CDCR allow all "B" privilege group inmates all weekend and evening activities, showers, and extended programs.

DEPARTMENT DECISION

The Secretary of the CDCR declines the petition in its entirety.

Petitioner states that he is challenging the regulations that govern the rights and privileges of the A-2-B work group/privilege group category of inmates. Petitioner indicates he was in the work group/privilege group A-1-A for a 12 year disciplinary free period, but was

placed on A-2-B status approximately 15 months ago due to the receipt of a 128 Counseling Chrono. That, combined with the length of his sentence, being on an Americans with Disabilities Act (ADA) modified duty status, and competing for work/school assignments with short time inmates, low custody inmates, and new arrival A-1-A inmates, have precluded him from moving high enough on the assignment waiting list to actually receive an assignment. As such, petitioner contends that inmates such as himself that have been on A-2-B status for an extended period of time are being denied equal access to various programs, yard and holiday activities, and showers, which constitutes cruel and unusual punishment.

Petitioner further states that on June 24, 2007, Mule Creek State Prison staff were instructed to begin denying A-2-B status inmates access to any programs outside their cells, such as showers, phones, dayroom, weekend and holiday activities, or weekend yard activities. Petitioner claims this disparity violates the Equal Protection concerns of inmates and contributes even further to their cruel and unusual punishment.

California Penal Code subdivision 2933(a) states in part that "it is the intent of the Legislature that persons convicted of a crime and sentenced to the state prison under Section 1170 serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Director of Corrections for performance in work, training or education programs established by the Director of Corrections". Subdivision 2933(b) states in part that "work time credit is a **privilege**, not a right (emphasis added). Worktime credit must be earned and may be forfeited pursuant to the provisions of Section 2932. Except as provided in subdivision (a) of Section 2932, every prisoner shall have a reasonable opportunity to participate in a full-time credit qualifying assignment in a manner consistent with institutional security and available resources."

The Department contends that A2 is defined in Title 15, Division 3, subsection 3044(b)(3), as a work group for an inmate "willing but unable to perform in a full-time assignment" and who "is placed on a waiting list pending availability of a full-time work assignment." As petitioner does not dispute that he is on a waiting list, A2 is the correct work group for petitioner's situation. Petitioner acknowledges that he has an ADA limitation on the type of work that he can perform that may narrow his scope for work assignments, but that does not mean that A2B is not appropriate as long as he can perform some work and is on a wait list.

Privilege group B is defined in subsection 3044(e)(3)(E), which states that inmates in this privilege group have "access to yard, recreation, and entertainment activities during the inmate's non-working

hours and limited only by institution/facility security needs." Each institution establishes an operational procedure that describes what hours A2B inmates can be out of their cells and what activities they have access to, consistent with institutional security and available resources. Operation procedures provide an explanation of an existing department policy and/or regulation. Local operational rules are permitted provided they fall under the authority of established regulations.

Government Code 11342.6 provides a mechanism by which an individual can petition to amend, adopt, or repeal a regulation that has the force of law. The petition should be specific as to the regulation to be changed, and if being amended or adopted, the specific suggested language should be provided. The petition submitted in this case primarily lists several grievances due to placement on an assignment wait list that results in reduced privileges. Additionally, the exact nature of what regulation change petitioner is requesting is unclear, as on the one hand he is stating that the A2B privilege designation is not contained in the Title 15 (it is), and on the other hand he is requesting the A2B privilege designation automatically revert to A1A privilege status after 30 days on a wait list.

While not actually rising to the level of a formal and proper petition as per the Government Code, the Department has elected to respond as if it were a properly filed petition. The correct mechanism for an inmate to address grievances about privilege assignments would be the Inmate Appeal system. If assistance is required in filing an appeal, petitioner is encouraged to contact his assigned correctional counselor.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

CALIFORNIA ENERGY COMMISSION

Adoption of Amendments of Appliance Regulations

This action changes the Commission's appliance efficiency regulations to conform with the provisions of a District Court order and to applicable federal standards.

Title 20
California Code of Regulations
AMEND: 1602, 1604, 1606, 1607
Filed 08/22/07
Effective 09/17/07
Agency Contact: Bill Staack (916) 654-3873

CALIFORNIA EXPOSITION AND STATE FAIR
Parking of Vehicles, General (Regulation) Provisions,
and Public Peace

In this regulatory action, the California Exposition and State Fair (Cal Expo) adopts regulations pertaining to parking and traffic control, general regulatory provisions, and public peace, morals and safety. These regulations have been approved by the Cal Expo Board of Directors pursuant to Food and Agricultural Code section 3332(f). Under section 3332(f), these regulations are exempt from the California Administrative Procedure Act (including review by the Office of Administrative Law (OAL)), and have been submitted to OAL for filing with the Secretary of State only.

Title 2
California Code of Regulations
ADOPT: Title and Sections of the California Code of Regulations Not Applicable
Filed 08/16/07
Effective 08/16/07
Agency Contact: Robert Farncomb (916) 263-6074

CALIFORNIA HIGHWAY PATROL
Cargo Securement Standards

This emergency regulatory action readopts the federal requirements for cargo securement standards in compliance with section 34500.3 of the Vehicle Code. (Previous OAL file ## 07-0423-01EE and 06-1220-01E)

Title 13
California Code of Regulations
ADOPT: 1300, 1400, 1401, 1402, 1403, 1404, 1405
REPEAL: 1300, 1301, 1302, 1303, 1304, 1304.1, 1305, 1310, 1311, 1312, 1313, 1314, 1315, 1320, 1321, 1322, 1323, 1324, 1325, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1339.1, 1339.2, 1339
Filed 08/22/07
Effective 08/30/07
Agency Contact: Jason Golenor (916) 445-1865

CALIFORNIA HIGHWAY PATROL
Compressed Natural Gas Fuel Systems

This regulatory action deals with reference publications and also National Fire Protection Association Standard 52 "Compressed Natural Gas Vehicular Fuel

Systems Code" or Standard 52 "Vehicular Fuel Systems Code". (CHP File CHP-R-06-13)

Title 13
California Code of Regulations
AMEND: 932, 934.1
Filed 08/21/07
Effective 09/20/07
Agency Contact: Gary Ritz (916) 445-1865

CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD
Active Disposal Site Gas Monitoring and Control

The regulatory action deals with gas monitoring and control at active and closed disposal sites.

Title 27
California Code of Regulations
ADOPT: 20939 AMEND: 20918, 20919, 20920, 29021, 20923, 20925, 20931, 20932, 20933, 20934, 20937 REPEAL: 20919.5
Filed 08/21/07
Effective 09/20/07
Agency Contact: Robert Holmes (916) 341-6376

DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

These emergency amendments will establish additional quarantine areas with respect to the light brown apple moth (LBAM; *Epiphyas postvittana*) in the counties of San Francisco, Monterey, San Mateo, Solano, Santa Clara, Santa Cruz and Alameda.

Title 3
California Code of Regulations
AMEND: 3434
Filed 08/21/07
Effective 08/21/07
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF INSURANCE
Bail Education

This regulatory action adopts specific provisions and forms for the prelicensing and continuing education course requirements for bail licensees.

Title 10
California Code of Regulations
ADOPT: 2105.1, 2105.2, 2105.3, 2105.4, 2105.5, 2105.6, 2105.7, 2105.8, 2105.9, 2105.10, 2105.11, 2105.12, 2105.13, 2105.14, 2105.15, 2105.16, 2105.17, 2105.18, 2105.19
Filed 08/20/07
Effective 09/19/07
Agency Contact: Jon Tomashoff (415) 538-4119

DIVISION OF LABOR STATISTICS AND RESEARCH

Log and Summary of Work-Related Injuries and Illnesses

This file is submitted as a change without regulatory effect for processing under section 100 proposed by the Department of Industrial Relations seeking to amend Title 8, sections 14300.10, 14300.12, 14300.29, and 14300.46, Appendices A, B, D, E to be consistent with the current U.S. Department of Labor Occupational Safety and Health Administration form for recording occupational injuries and illnesses. The proposed revisions to 14300.10, 14300.12, 14300.29, and 14300.46, Appendices A, B, D, E are without regulatory effect.

Title 8
California Code of Regulations
AMEND: 14300.10, 14300.12, 14300.29, 14300.46
Filed 08/22/07
Agency Contact: Ramon Cruz (415) 703-4757

FISH AND GAME COMMISSION

Marine Protected Areas

California Fish and Game Commission is amending regulations pursuant to the Marine Life Protection Act (MLPA) to preserve and designate additional marine protected areas (MPAs) on the Central Coast of California. This is the first step in the state's implementation of the Marine Life Protection Act (MLPA) Program, which was designed to better conserve marine resources for their long-term sustainability while also allowing outdoor recreation and ocean research opportunities along the coast. This action establishes approximately 204 sq. miles of state waters (about 18%) with 85 sq. miles designated as no-take reserves along the Central Coast from Pigeon Point in San Mateo to Point Conception in Santa Barbara. The adopted changes also provide for various fishing and kelp harvesting provisions in certain areas.

Title 14
California Code of Regulations
AMEND: 165, 245—App. A, 632
Filed 08/22/07
Effective 09/21/07
Agency Contact: Sherrie Koell (916) 653-4899

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Storage and Use of Fuel Gas Cylinders

This regulatory action specifies the types of gas cylinders which are subject to a requirement for gas cylinders to be stored and used with the valve end up.

Title 8
California Code of Regulations
AMEND: 1740
Filed 08/21/07
Effective 09/20/07
Agency Contact: Marley Hart (916) 274-5721

**STATE WATER RESOURCES CONTROL BOARD
Basin Plan Amendment for Phased Waste Discharge Prohibition**

This regulatory action amends the Santa Ana Region Basin Plan via Resolution No. R8-2006-0024 on October 3, 2006. The amendment extends the waste discharge prohibitions by establishing a phased waste discharge prohibition on the use of septic tank-subsurface disposal systems in the Quail Valley area of Riverside County. It prohibits the use of new septic systems in high density areas and requires all existing septic systems to connect to the sewer within one year of availability. It does not prohibit septic systems in areas where sewers are not feasible (low density areas).

Title 23
California Code of Regulations
ADOPT: 3979.3
Filed 08/20/07
Agency Contact: Nick Martorano (916) 341-5980

**STATE WATER RESOURCES CONTROL BOARD
Los Angeles Regional Water Quality Control Board —
Basin Plan Amendment to Incorporate Copper WERs
in Lower Calleguas Creek and Mugu Lagoon**

In this regulatory action subject to Government Code section 11353, the Los Angeles Regional Water Quality Control Board adopted, and the State Water Resources Control Board approved, an amendment of the Water Quality Control Plan for the Los Angeles Region. The amendment establishes site-specific Water-Effect Ratios (WERs) for copper in Mugu Lagoon (Reach 1) and Lower Calleguas Creek (Reach 2) in the Calleguas Creek Watershed in Ventura County.

Title 23
California Code of Regulations
ADOPT: 3939.26
Filed 08/16/07
Agency Contact: Mitchell Goode (916) 341-5726

**STATE WATER RESOURCES CONTROL BOARD
Nutrient TMDL for Dry Hydrological Conditions for
Big Bear Lake**

This regulatory action amends the Santa Ana Region Basin Plan by adding a new section 3979.2 to Title 23. The new section establishes a "Nutrient Total Maximum Daily Load (TMDL) for Dry Hydrological Conditions for Big Bear Lake." The Santa Ana Regional Wa-

ter Quality Control Board adopted the amendment in Resolution RB8–2006–0023 on April 21, 2006. The State Water Resources Control Board approved the amendment in Resolution No. 2007–0013 on April 3, 2007.

The amendment modifies the Basin Plan by establishing a nutrient TMDL for dry hydrological conditions for Big Bear Lake. The nutrient specifically addressed by the TMDL is phosphorus, which is responsible for the proliferation of certain aquatic plants that have severely affected the beneficial uses of Big Bear Lake. No numeric targets for nitrogen have been identified (nitrogen under certain circumstances can cause the proliferation of aquatic plants), however, nitrogen monitoring and reporting is required by the TMDL. The data collected will be used to specify nitrogen numeric targets in a future TMDL revision. The Basin Plan Amendment will become effective upon approval by OAL and the U.S. EPA.

Title 23
California Code of Regulations
ADOPT: 3979.2
Filed 08/21/07
Agency Contact: Nirmal Sandhar (916) 341–5571

STATE WATER RESOURCES CONTROL BOARD
Revision of the Implementation Plan for the Upper Santa Clara River Chloride TMDL

This regulatory action modifies the regulatory provisions of the Implementation Plan for the Upper Santa Clara River Chloride TMDL (Implementation Plan) via Resolution No. 06–016 on August 3, 2006. It accelerates the schedule for compliance with the Total Maximum Daily Load (TMDL) for chloride limits from 13 years to 11 years and adds implementation milestones for TMDL planning. CEQA Notice of Exemption was obtained. SWRCB approved the amendment with Resolution 2007–0029 on 5–22–07.

Title 23
California Code of Regulations
AMEND: 3939.10
Filed 08/15/07
Effective 08/15/07
Agency Contact: Nirmal Sandhar (916) 341–5571

SUPERINTENDENT OF PUBLIC INSTRUCTION
Child Care and Development Services

This regulatory action establishes the information and documentation necessary to determine eligibility for subsidized child care and development services.

Title 5
California Code of Regulations
ADOPT: 18096 AMEND: 18078, 18081, 18084, 18085, 18089, 18090, 18100, 18107
Filed 08/16/07
Effective 09/15/07
Agency Contact: Debra Strain (916) 319–0860

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN MARCH 21, 2007 TO
AUGUST 22, 2007**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1
07/09/07 AMEND: 270
06/28/07 AMEND: 2616

Title 2
08/03/07 AMEND: 58800
08/02/07 ADOPT: 1700
07/18/07 AMEND: 1859.2, 1859.51, 1859.61, 1859.81, 1859.202, 1866
07/18/07 ADOPT: 7288.0, AMEND: 7288.0, 7288.1, 7288.2, 7288.3
07/18/07 AMEND: 18361.2, 18361.4
07/17/07 AMEND: 1859.2
07/02/07 ADOPT: 18531.62 AMEND: 18544, 18545
07/02/07 ADOPT: 1859.302, 1859.324.1, 1859.330 AMEND: 1859.302, 1859.318, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.326, 1859.328, 1859.329
06/20/07 ADOPT: 1859.106.1 AMEND: 1859.106
06/15/07 AMEND: div. 8, ch. 111, sec. 59560
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REPEAL: 20108.37
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05/21/07	AMEND: 18402	05/07/07 AMEND: 3433
05/17/07	ADOPT: 1859.70.4, 1859.71.6, 1859.77.4, 1859.162.1, 1859.162.2, 1859.162.3, 1859.163.4, 1859.163.5, 1859.163.6, 1859.163.7, 1859.169.1 AMEND: 1859.2, 1859.51, 1859.60, 1859.61, 1859.70.3, 1859.71, 1859.78.9, 1859.83, 1859.93.2, 1859.160, 1859.161, 1859.162, 1859.163.1, 1859.163.2, 1859.163.3, 1859.164, 1859.164.1, 1859.164.2, 1859.165, 1859.166, 1859.167, 1859.167.1, 1866.4, 1866.13 REPEAL: 1859.162.1	05/07/07 AMEND: 6860 05/03/07 ADOPT: 3035 REPEAL: 3035, 3035.1, 3035.2, 3035.3, 3035.4, 3035.5, 3035.6, 3035.7, 3035.8, 3035.9 04/25/07 AMEND: 3433(b) 04/23/07 AMEND: 3591.20 04/20/07 AMEND: 3591.20(a) 04/20/07 ADOPT: 3434 04/03/07 AMEND: 3591.20(a), 3591.20(b) 04/02/07 AMEND: 752, 796.6, 1301 03/28/07 AMEND: 3591.2(a) 03/27/07 ADOPT: 1446.9, 1454.16 03/21/07 ADOPT: 3591.20
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05/14/07	AMEND: 599.664	05/30/07 AMEND: 1481
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04/25/07	AMEND: 1859.83, 1859.202, 1866	08/13/07 ADOPT: 17660, 17661, 17662, 17663, 17664, 17665, 17666, 17667
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04/04/07	AMEND: 28010 REPEAL: 36000	07/31/07 ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6,
03/27/07	AMEND: 59560	07/27/07 AMEND: 50500
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08/10/07	ADOPT: 3152	06/01/07 REPEAL: 41916
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07/23/07	AMEND: 3589(a)	05/18/07 ADOPT: 19828.2, 19829.5, 19830.1, 19837.1, 19838, 19846 AMEND: 19816, 19816.1, 19828.1, 19830, 19837, 19854
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07/20/07	AMEND: 3423(b)	05/07/07 ADOPT: 30910, 30911, 30912, 30913, 30914, 30915, 30916, 30917
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07/09/07	AMEND: 3433(b)	
07/06/07	AMEND: 3591.2(a)	
07/06/07	AMEND: 3589(a)	
06/21/07	AMEND: 3434(b), 3434(c)	
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06/01/07 AMEND: 4543
05/23/07 AMEND: 5001
05/23/07 AMEND: 9767.4, 9767.8, 9768.10,
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05/21/07 AMEND: 9768.5, 9788.31
05/16/07 AMEND: 8397.16
04/27/07 AMEND: 1801, 8416
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04/20/07 AMEND: 5148(c)
04/20/07 AMEND: 1620, 1626, 1629
04/18/07 AMEND: 20299, 20363, 20407
03/29/07 AMEND: 3664(a)
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04/24/07	AMEND: 2498.6	
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03/23/07	AMEND: 2695.8(b)(2)	
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08/01/07	AMEND: 1070, 1081, 1082	
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06/08/07	AMEND: 9072	
06/06/07	AMEND: 1010 (renumber to 9030 to new Chapter 3)	
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REG 256 (REV. 9/2005)

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06/18/07 AMEND: 17210.2, 17210.4, 17855.2,
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04/30/07 AMEND: 1257
04/13/07 ADOPT: 18751.2.1, Form CIWMB
303a, Form CIWMB 303b AMEND:
18751.2 REPEAL: Form CIWMB 303

04/02/07 AMEND: 679
03/27/07 AMEND: 11900
03/27/07 AMEND: 11945
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05/15/07 ADOPT: 3999.4
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04/19/07 AMEND: 3084.1, 3391
04/18/07 AMEND: 2600.1
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08/03/07 AMEND: 1399.541
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07/16/07 AMEND: 2670
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07/11/07 AMEND: 68.3, 68.4, 88, 88.1, 88.2, 89,
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07/10/07 AMEND: 4114
07/03/07 ADOPT: 4152.1
06/22/07 AMEND: 1399.170.11
06/20/07 AMEND: 3303.1
06/15/07 AMEND: 2070, 2071
06/12/07 AMEND: 1325, 1339, 1344, 1350.3,
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05/23/07 AMEND: 1706.2
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04/09/07 AMEND: 1388.6, 1381.5

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